Appendix

STIPULATION OF DAVID C. DUNLAP, ESQ., ATTORNEY FOR RESPONDENT IN OPEN COURT DECEMBER 20, 1943 IN THE CASE OF CHESTER BOWLES, ADMINISTRATOR, OFFICE OF PRICE ADMINISTRATION, PLAINTIFF, v. STANLEY W. TAYLOR, ISABELLE D. TAYLOR AND EVELYN FLYNN, No. 22,364-G, U. S. DIST. CT. SO. DIV., NO. DIST. CALIF.

"Mr. Dunlap. We would like to stipulate also as follows, your Honor, so that I won't need to introduce proof on it: that after the injunction was issued in this pending case, Mrs. Flynn petitioned the OPA to have a separate apportionment of the rental payments of March 1, 1942 cover her ownership of the furniture, and that petition was dismissed and a review was denied; that thereafter Mrs. Flynn filed a petition with the OPA asking that under 4(d) of the Emergency Price Control Act of 1942 that she be permitted to withdraw her property from the rented units; that petition was denied; and that thereafter she came before this court sometime in May of 1943 and asked the Court for an apportionment or interpretation of the injunction as to whether or not she could collect for her furniture at the March 1, 1942 rental, and the Court did not make any adjudication in that regard."

TESTIMONY OF WARD COX, ASSISTANT REGIONAL RENT EXECUTIVE FOR RESPONDENT IN REGION VIII (WHICH INCLUDES SAN FRANCISCO).

This testimony concerns the property at 530 Larkin Street wherein petitioner is required by order of the

same Ward Cox (serving as Acting Rent Director for respondent) to leave her property of a value of $15,000.00 for the free use of tenants. (R. 16.)

Mr. Luther Carr, Esq., for the Office of Price Administration, Respondent.

Mr. Taylor, for the Protestant in Protest 15 Reg. VIII.

"In response to Mr. Carr's question as to whether or not Mr. Cox thought the apartment house was a good investment, Mr. Cox replied as follows:

I believe we did touch upon that. I believe Mr. Taylor asked me what I thought the units were worth furnished, and I made the statement that I wasn't up there for that purpose, to determine by any comparability survey just what those units were worth furnished. I did say, though, if this is permissible in the record, with Mr. Taylor's permission, that I would like to buy the building: I thought I could make a deal at my price, seeing that he was dissatisfied with it."

"Mr. Cox. I know a couple more buildings, one on O'Farrell and one on Turk, they claim—I can substantiate it very easily by records—they claim in one case there are 47 units and they return $8600.00 net per year, before depreciation; that on another 37 units they claim $8700.00 net per year without depreciation. And I understand you can buy them for $75,000.00. Therefore, my willingness to pay Mr. Taylor $75,000.00 for this piece.

Mr. Taylor. You offered $70,000.00.

Mr. Cox. Did I? If you want that in the record, I would just say this. As an ex-real

estate operator, you would try to purchase something at the best figure possible, wouldn't you?*

Mr. Taylor. That's true. We're not blaming you for offering $70,000.00. I just want to get the amount of the offer clear on the record.

Mr. Cox. You understand, counsel, that any offer made in this sense is not binding at all."

(Pages 46-47 of record in Pet. of Evelyn Flynn 8-S.F. 30482.)

Testimony of Ward Cox continued, on being questioned as to what the owners might do, since they were not permitted to charge for the facilities and services provided, and not permitted to recover possession of the property.

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*The real property involved is a modern six-story steel frame and concrete building constructed in 1928-1929 at a total cost, including land, of approximately $175,000.00; it is located in the heart of downtown San Francisco two blocks north of the Civic Center and has a present market value of approximately $125,000.00.

It was in the hands of a bankruptcy Court in 1940 and 1941 and substantial improvements were made by the new owners who purchased it in August of 1941. Additional services were also provided the tenants.

In November of 1942 the Office of Price Administration required the owners to reduce the rentals in the property to the bankruptcy rates prevailing before the improvements and increased services, resulting in an operating loss of $80.22 for the year of 1942, according to OPA accountants. The Office of Price Administration sought to require the owner to take a loss of $2,382.75 for the year 1942 by requiring refunds to tenants, but although numerous letters were sent the tenants by OPA none of them saw fit to require such refunds. Losses for the year 1943 amounted to $2037.06, in addition to which the owners are required to provide their own services without compensation in the administration and operation thereof. These figures do not include the losses of petitioner herein who supplies the furnishings.

"Mr. Cox. Wait a minute. To be brutally frank, I don't see any reason why I should be interested in the case. It's a matter that's in the hands of the attorneys and not in my hands.

Mr. Taylor. I'm not asking you to settle the case.

Mr. Cox. Let me finish. And if I had the property and I couldn't find out what I was going to do with it because I couldn't operate it as an apartment house, I'd just step aside very graciously and leave the bank take it, because properly they can obtain those deficiency judgments from you.

Mr. Taylor. I didn't ask you to state that on a financial basis, because you have no knowledge as to how long or whether I can hold it vacant for ten years.

Mr. Cox. I'm just saying what I would do.

Mr. Taylor. If you were in financial embarrassment as well.

Mr. Cox. If I were placed in a position where I couldn't operate it for the purpose for which I originally purchased the property, and I thought there was no other alternative, then I would neatly step aside and leave the bank take it, or whoever had the loan.

Mr. Taylor. And let them take a fifty-thousand-dollar equity?

Mr. Cox. I didn't know you have a fifty-thousand-dollar equity in it.

Mr. Taylor. It might make some difference?

Mr. Cox. I thought your question was if you were in a jam and operating an apartment house or store building or theatre or office building and couldn't carry on operations successfully and

were losing money every month. If you are losing money every month what do you do? You take the cheapest way out of your problem, don't you?

Mr. Taylor. Assuming that the losses are only temporary, you attempt to ride out the storm, don't you?

Mr. Cox. In a case of this kind can you object to the questioning, because I don't see why"——

That was the close of his testimony.

(Pages 45-46 of record of Pet. 8-S.F. 30482.)

DOCKET 8—S.F. 30,355; 20,872; 9574.

Excerpts from Official O. P. A. correspondence showing how a landlord is required and forced under threat of criminal prosecution to provide an extra room, refrigerator, and furniture, and take care of three extra occupants for 9 months without any compensation whatsoever. This case by incorporation into the record of Protest 15 Region VIII was made a part of the record of Petition 8-S.F. 30482 (Petition of Evelyn Flynn) by order of respondent June 16, 1943.

At the request of a prospective tenant the landlord provided an extra room, refrigerator and furniture for the use of three extra occupants and immediately filed his petition (No. 9574) for approval of the additional $20.00 per month which the tenant agreed to pay. Six months later O.P.A. wrote the landlord as follows:

"March 24, 1943
In reply refer to:
8RA(WRW)SF(L)
21,235—9574

* * * * * * *

"Dear Sir:

* * * * * * *

"Your petition No. 9574 was dismissed for the reason that the petition itself merely states 'the amount of money expended for such improvements and furnishings is $1005. which I, the owner have paid' * * *.

* * * * * * *

"As advised you yesterday, the only way that you can increase the legal rental on 5914 California Street from $45.00 to some higher figure is by filing a petition specifying in detail the additional furnishings which you claim to have added and in that event the increase will not be effective until an order is issued covering your petition.

* * * * * * *

"* * * Undoubtedly, if an additional room was furnished in September as compared to March 1st 1942, you of course are entitled to additional rent but such additional rent can only be legally collected when you receive an order from this office issued in response to a petition filed that is made out with the necessary information thereon."

* * * * * * *

(Signed:) Wm. R. Weill
Chief Investigator"

Following this, the landlord received a form letter signed by the O.P.A. Rent Attorney requiring him to

refund to his tenant the rent, if any, collected by the landlord for the additional room and furnishings before an order granting the increase would be made.* A copy of this form letter was sent to the tenant.

The landlord promptly replied to this letter as follows:

"5916 A California Street,
San Francisco, Calif. Apr. 6, 1943

San Francisco Bay Defense-Rental Area,
1355 Market Street
San Francisco, Calif.

Re: #30,355
Attn. Mr. Fred D. Callaway

Dear Sirs:

Your form letter received. To the best of my knowledge the owner is in full compliance with the regulations. It is possible the petition or procedure advised by your office is not the exact one to be followed.

In our opinion this unit as now rented is entirely different than the one rented on March 1st, 1942 and therefore constitutes a new offering. To require the owner to refund any money pending an order of the Director reducing the rent would

*On the maximum rent date, two persons occupied three furnished rooms at a rental of $45.00 per month. When this dwelling unit became vacant, the owner refinished the front of the building which contained two dwelling units, redecorated the dwelling unit involved, and at the request of the prospective tenant, supplied an additional bedroom with furniture, and a refrigerator. The total cost of the furniture and improvements was approximately $1000.00. The family of the new tenant comprised five persons. The owner purchased this new furniture on installment payments of $25.00 per month. The tenant signed a written lease calling for total rental of $65.00 per month, with full knowledge of all the foregoing facts.

be a taking of the additional room, furnishings and services without any compensation.

We realize that you do not desire this to happen, and call attention to the fact that a petition was filed with you in accordance with instructions given at your office when this new offering was made and accepted by the tenant. We have made every effort within our knowledge and information to comply with the regulations by filing the original petition as instructed and by filing the new one now before you.

Of course we have not refunded any rent paid. To the best of our knowledge there has not been any order of the director reducing the rent.

Very sincerely yours,

(Signed) Wm. E. Valencia"

The tenant however refused to pay any further rent whatsoever until the rental previously paid for the extra room and furniture (which was $20.00 per month for seven months past) had been fully off-set against accruing rent pursuant to the O.P.A. Rent Attorney's form letter. After considerable discussion, when the current rent was about a month in arrears, the landlord, in accordance with the state law, duly gave to the tenant a written three-day notice either to pay his rent or to surrender the premises. The landlord served a copy of this notice on the rent director the same day in accordance with the provisions of Maximum Rent Regulation 28.

Thereupon the O.P.A. Rent Attorney wrote to the landlord as follows (It is interesting to contrast the tenor of this Rent Attorney's letter with that of the letter of the landlord herein above incorporated):

"April 15, 1943
In Reply Refer to:
8RA-SF: FDC (L)
Docket 30,355
#21,235

* * * * * * *

"Dear Sir and Madam:

* * * * * * *

"We now find that you are attempting an illegal eviction against your tenant, a service man. Are you not aware that the State Bar, and the Lawyers' Guild, as a part of their patriotic duty, are defending service men in such circumstances? Also, that they will assist such service man in the filing of an action against you for treble damages? This also has been explained to you.

"Your maximum legal rent, as registered by you in this office, is $45 per month. Any charge over that amount since July 1, 1942, is an illegal rent, which must be refunded to the tenant, either in cash, or where the tenant remains in occupancy, by a credit against his next rent, or both. The tenant may choose to sue you for three times the amount of overcharge paid since August 1, 1942, or for $50 for each such charge, whichever amount is larger. Attorney's fees and costs of court may also be awarded to him.

"Your petition to adjust the rent on these premises, on the grounds that you have installed *additional* furniture, cannot be acted on until you are in 'full compliance'. This you will not be until you have every registration correct, your illegal attempt to evict withdrawn, and your rent back to the maximum legal—for every unit of your property.

"An inspection has been made of your property, we are ready to issue the order increasing the rent, on the basis of your petition, but this we cannot do until you come into full compliance.

"Moreover, may I remind you, Mr. Valencia, whether acting as co-owner, as husband of the owner, or as agent of the owner, that you have a criminal as well as a civil responsibility in this matter, and if civil sanctions fail to bring you into compliance, it will be necessary to resort to the criminal action.

(Signed:) Fred D. Callaway
Rent Enforcement Attorney."

Pursuant to the foregoing letter the Office of Price Administration refused to issue an order adjusting the rent until after the tenant served notice that he was vacating at the end of 9 months occupancy during which time he had enjoyed the extra room, refrigerator and furniture for the use of three extra occupants without any compensation to the owner. The order then issued by the Office of Price Administration was not to be effective for the period of past occupancy but to cover only a future tenant.

The landlord then assigned his claim for $180.00 to Rauer's Collection Co. Inc. who filed suit to recover, whereupon the Office of Price Administration threatened the agency (principal and attorney) with criminal prosecution unless the suit was dismissed. The following is from a letter written by O.P.A. confirming this fact. See also letter of the Collection Co. set forth thereafter.

San Francisco Bay Defense Rental Area
Office of Price Administration
1355 Market Street
San Francisco, California

June 22, 1943 8RA-SF: FDC (L)

Rauer's Collection Company, Inc., 20,872
703 Market Street, 30,355
San Francisco, California. 9,574

Re: Guadalupe Gueterez and William E. Valencia, owners;
Lt. Com. Robert E. Ramey, USNR, tenant,
5914 California Street, San Francisco, premises.

Dear Sirs:

Pursuant to the telephone conversation today between David Freidenrich, of our legal staff, and Jerome L. Schiller, your attorney, concerning the action filed by Mr. Schiller, on your behalf, as assignee of a claim for rent made by the above named Guadalupe Gueterez and William E. Valencia, against Lt. Com. Robert E. Ramey, USNR, and his wife, tenants at 5914 California Street, owned by the said Gueterez and Valencia, I am writing to confirm the statements made by Mr. Freidenrich.

Mr. Freidenrich advised your attorney that the claim for rent at the rate of $65 per month for these premises is a claim for an illegal rent. The maximum legal rent of these premises was $45.00 per month from July 1, 1942 until the next rent date after June 17, 1943. * * *

This claim which you have filed, as assignee and agent for Guadalupe Gueterez and William

E. Valencia, against Robert E. Ramey and his wife is, therefore, a demand for an illegal rent, and we must inform you that you will be in violation of the Rent Regulations along with your principals and assignors, if you proceed with such claim.

We therefore request that you dismiss this claim and so inform us, immediately. If this is not done we will have to take whatever action is essential to secure compliance with the law.

A copy of this letter is being sent to your attorney, your assignors and principals, and to the tenants.

Very truly yours,
David C. Dunlap,
Chief Enforcement
Attorney."

The following is relevant portion of letter from the Collection Co. confirming the above:

"Rauer's Collection Co. Inc.
San Francisco

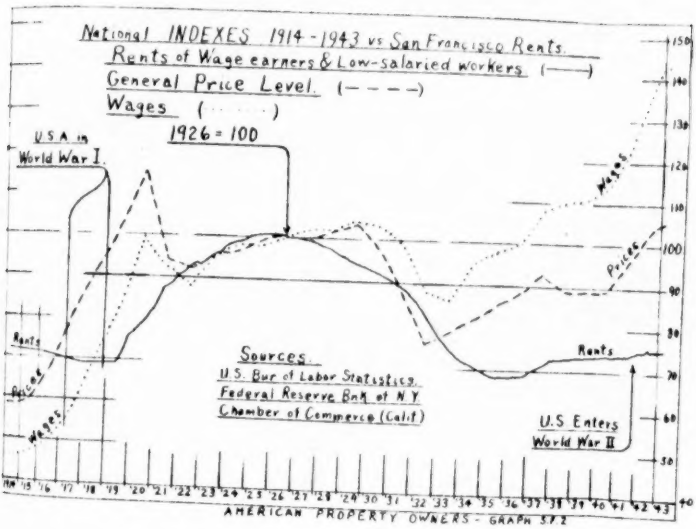
June 23, 1943

Mr. William E. Valencia,
5916-A California St.
San Francisco, Calif.

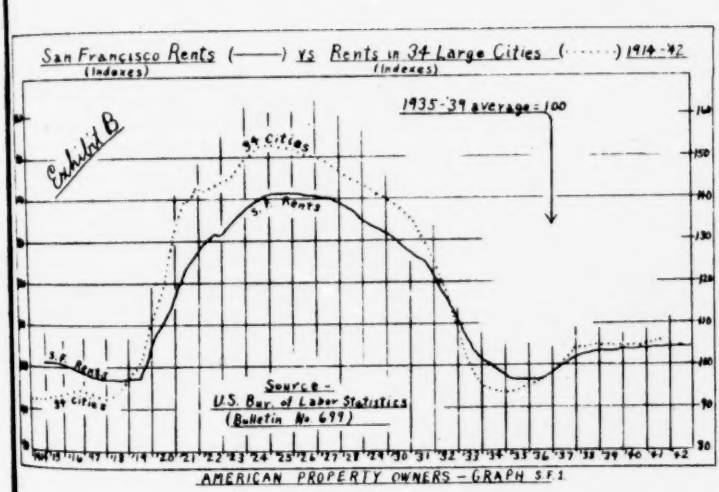
Dear Sir:

Regarding the claim which you referred to us against Mrs. R. E. Ramey, * * * the O.P.A. has threatened arrest and prosecution unless we dismiss this action. * * * we cannot afford to handle this matter for you * * *.

Rauer's Collection Co. Inc.,
By R. E. Clark (President)."



AMERICAN PROPERTY OWNERS - GRAPH 57.2



AMERICAN PROPERTY OWNERS - GRAPH S.F. 1